

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-1225; Directorate Identifier 2009-NM-257-AD; Amendment 39-16159; AD 2010-01-03]

RIN 2120-AA64

Airworthiness Directives; Fire Fighting Enterprises Limited Portable Halon 1211 Fire Extinguishers as Installed on Various Transport Airplanes, Small Airplanes, and Rotorcraft

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA [European Aviation Safety Agency] that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. * * *

* * * * *

* * * This Halon 1211 has subsequently been used to fill certain FFE [Fire Fighting Enterprises] portable cabin and toilet compartment fire extinguishers that are now likely to be installed in or carried on board aircraft.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aircraft and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aircraft occupants.

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This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective January 20, 2010.

We must receive comments on this AD by February 19, 2010.

ADDRESSES: You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: (202) 493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency Airworthiness Directive 2009-0251-E, dated November 25, 2009, and Airworthiness Directive 2009-0262, dated December 15, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. EASA AD 2009-0251-E states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in handheld fire extinguishers, usually fitted or stowed in aircraft cabins.

EASA published Safety Information Bulletin (SIB) 2009-39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation now show that LyonTech Engineering Ltd, a UK-based company, has supplied a quantity of heavily contaminated Halon 1211 (BCF) to Fire Fighting Enterprises (FFE). This Halon 1211 has subsequently been used to fill certain FFE portable fire extinguishers that are now likely to be installed in or carried on board aircraft.

The contaminated nature of this gas, when used against a fire, may lead to release of toxic fumes, possibly causing injury to aircraft occupants.

For the reason described above, this EASA AD requires the identification and removal from service of all affected fire extinguishers and replacement with serviceable units.

EASA AD 2009-0262 adds the following:

* * * On 25 November 2009, EASA Emergency AD 2009-0251E was published to address an earlier batch of extinguishers with contaminated Halon 1211.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to Fire Fighting Enterprises (FFE) that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain FFE portable cabin and toilet compartment fire extinguishers that are now likely to be installed in or carried on board aircraft.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aircraft and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aircraft occupants.

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You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI

We have reviewed the MCAI and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the AD.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because contaminated Halon 1211 gas has been used to fill certain portable cabin and toilet compartment fire extinguishers that are now likely to be installed in or carried on board aircraft. The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aircraft and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aircraft occupants. Therefore, we determined that

notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the ADDRESSES section. Include "Docket No. FAA-2009-1225; Directorate Identifier 2009-NM-257-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39–AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:



2010-01-03 Fire Fighting Enterprises Limited: Amendment 39-16159. Docket No. FAA-2009-1225; Directorate Identifier 2009-NM-257-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 20, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to portable Halon 1211 (BCF) fire extinguishers manufactured by Fire Fighting Enterprises Limited. These fire extinguishers may be installed on (or carried or stowed on board) various transport airplanes, small airplanes, and rotorcraft, certificated in any category, identified in but not limited to the airplanes and rotorcraft of the manufacturers included in Table 1 of this AD, all type-certificated models.

Table 1—Affected Airplanes and Rotorcraft

Manufacturer	Product subtype
328 Support Services GmbH (Type Certificate previously held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH).	Transport Airplane.
Aermacchi S.p.A	Small Airplane.
Agusta S.p.A	Rotorcraft.
AgustaWestland	Rotorcraft.
Airbus (Type Certificate previously held by Airbus Industrie)	Transport Airplane.
Aircraft Industries a.s. (Type Certificate previously held by LETECKE ZAVODY a.s.; LET Aeronautical Works)	Small Airplane.
Alenia Aeronautica	Transport Airplane.
B–N Group Ltd (Type Certificate previously held by Pilatus Britten-Norman Limited; Britten-Norman (Bembridge) Limited).	Small Airplane.
BAE Systems (Operations) Limited (Type Certificate previously held by British Aerospace Regional Aircraft; British Aerospace (Commercial Aircraft) Limited; Jetstream Aircraft Limited; British Aerospace, PLC; Avro International Aerospace Division; British Aerospace).	Transport Airplane.
The Boeing Company	Transport Airplane.

Empresa Brasileira de Aeronautica S.A. (EMBRAER)	Transport Airplane.
Eurocopter Deutschland GMBH (ECD) (Type Certificate previously held by Messerschmitt-Bolkow-Blohm-Gmbh)	Rotorcraft.
Eurocopter France	Rotorcraft.
Fokker Services B.V	Transport Airplane.
Hawker Beechcraft (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation)	Small Airplane.
Pilatus Aircraft Ltd	Small Airplane.
Saab AB, Saab Aerosystems (Type Certificate previously held by SAAB AIRCRAFT AB; SAAB-Fairchild)	Transport Airplane.
Short Brothers PLC (Type Certificate previously held by Short Brothers, Ltd.)	Transport Airplane.
Triton America LLC (Type Certificate previously held by AAI Acquisition, Inc; Adam Aircraft)	Small Airplane.
Vulcanair S.p.A. (Type Certificate previously held by Partenavia Costruzioni Aeronautiche S.p.A)	Small Airplane.

Subject

(d) Air Transport Association (ATA) of America Code 26: Fire Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) consists of two European Aviation Safety Agency (EASA) ADs: 2009-0251-E, dated November 25, 2009, and 2009-0262, dated December 15, 2009. EASA AD 2009-0251-E states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in handheld fire extinguishers, usually fitted or stowed in aircraft cabins.

EASA published Safety Information Bulletin (SIB) 2009-39 on 23 October 2009 to make the aviation community aware of this safety concern.

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The contaminated nature of this gas, when used against a fire, may lead to release of toxic fumes, possibly causing injury to aircraft occupants.

For the reason described above, this EASA AD requires the identification and removal from service of all affected fire extinguishers and replacement with serviceable units.

EASA AD 2009-0262 adds the following:

* * * * *

* * * On 25 November 2009, EASA Emergency AD 2009-0251E was published to address an earlier batch of extinguishers with contaminated Halon 1211.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to Fire Fighting Enterprises (FFE) that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain FFE portable cabin and toilet compartment fire extinguishers that are now likely to be installed in or carried on board aircraft.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aircraft and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aircraft occupants.

* * * * *

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Do the following actions.

(1) Within 90 days after the effective date of this AD, replace portable Halon 1211 (BCF) fire extinguishers manufactured by Fire Fighting Enterprises Limited with serviceable fire extinguishers; except as provided by paragraph (g)(2) of this AD.

(2) Fire extinguishers identified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD are not required to be replaced.

(i) Fire extinguishers conclusively determined to have been most recently filled with Halon 1211 supplied by a company other than LyonTech Engineering Limited.

(ii) Fire extinguishers that have been most recently filled by LyonTech Engineering Limited and that are conclusively determined by Fire Fighting Enterprises Limited to be filled with Halon 1211 that meets their design specification for Halon purity.

(3) As of the effective date of this AD, do not install any portable fire extinguisher manufactured by Fire Fighting Enterprises Limited unless it has been conclusively determined that the last time it was filled, it was filled with Halon 1211 supplied by a company other than LyonTech Engineering Limited; or it has been conclusively determined by Fire Fighting Enterprises Limited that the last time it was filled, it was filled with Halon 1211 that meets their design specification for Halon purity.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) EASA ADs 2009-0251-E and 2009-0262 specify to inspect for certain fire extinguishers manufactured by Fire Fighting Enterprises Limited and replace if necessary. This AD requires

replacing all fire extinguishers manufactured by Fire Fighting Enterprises Limited except as provided in paragraph (g)(2) of this AD.

(2) EASA AD 2009-0251-E specifies a time of 2 days to do the actions and EASA AD 2009-0262 specifies a time of 30 days to do the actions. This AD requires that the actions be done within 90 days. We have determined that a 90-day compliance time will ensure an acceptable level of safety.

Other FAA AD Provisions

(h) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The manager of the office having certificate responsibility for the affected product has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, will coordinate requests for approval of AMOCs with the manager of the appropriate office for the affected product. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(i) Refer to MCAI EASA Emergency Airworthiness Directive 2009-0251-E, dated November 25, 2009; and EASA Airworthiness Directive 2009-0262, dated December 15, 2009; for related information.

Material Incorporated by Reference

(j) None.

Issued in Washington, DC, on December 28, 2009.
Kalene C. Yanamura,
Acting Director,
Aircraft Certification Service.